

**HOUSE . . . . . No. 2485**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to pension reform..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Subdivision (2) of Section 23 of Chapter 32 of the General Laws is hereby  
2 amended by striking out sub-paragraph (b) and inserting in place thereof the following: -

3 (b) The board of each system shall invest and reinvest the funds of such system in the  
4 PRIT Fund pursuant to subdivision (8) of section twenty two, in the PRIT Fund by purchasing  
5 shares of said fund, as provided for in the trust agreement adopted by the PRIM Board pursuant  
6 to subdivision (2A) or as follows:-

7 (i) in accordance with the standards set forth in subdivision (3), provided that: -

8 (A) no investment of funds shall be made in stocks, securities or other obligations of any  
9 company which derives more than 15 per cent of its revenues from the sale of tobacco products.

10 (B) in investing such funds the board shall employ an investment manager or investment  
11 managers who shall invest the funds of the system.

12 (C) no funds shall be invested directly in mortgages or collateral loans.

13 No investment of funds shall take place until board has received from the commission an  
14 acknowledgement of receipt of the following:-

15 (a) certification that, in making the selection, the board has complied with the process  
16 established in section 23A;

17 (b) a copy of the vendor certification required under section 23A;

18 (c ) copies of disclosure forms submitted by the selected vendor;

19 (d) a certification that the investment is not a prohibited investment as set forth in  
20 regulations of the commission;

21 (e) in the event that the board has retained a consultant, a copy of the consultant reports  
22 pertaining to the investment and the selected vendor;

23 (f) a copy of the board certification required under section 23A.

24 The commission may withhold the acknowledgement if it determines that it is in the best  
25 interest of the retirement system provided, however, that it must so notify the board within ten  
26 days of receipt of completed documents as required by this section.

27 Prior to the retention of an investment consultant the board must receive from the  
28 commission an acknowledgement of receipt of the following:-

29 (a) certification that, in making the selection, the board has complied with the process  
30 established in section 23A;

31 (b) copy of the vendor certification required under section 23A;

32 (c ) copies of disclosure forms submitted by the selected consultant;

33 (d) copy of the board certification required under section 23A.

34 Section 2. Section 50 of Chapter 7 of the General Laws as appearing in the 2004 Official  
35 Edition is hereby amended by striking out lines 68 through 69 inclusive.

36 Section 3. Clause 19 of paragraph (b) of Section (1) of Chapter 30B of the General Laws  
37 is hereby amended by adding the following:-

38 provided, however, that such procurements shall take place in accordance with the  
39 provisions of section 23A of chapter 32.

40 Section 4. Chapter 32 of the General Laws is hereby amended by adding the following  
41 section: -

42 Section 21A. (a) As used in this section the following words shall, unless the context  
43 requires otherwise, have the following meanings: -

44 "Affiliates", entities which are affiliates of each other when either directly or indirectly  
45 one concern or individual controls or has the power to control another, or when a third party  
46 controls or has the power to control both.

47 "Commission", the Public Employee Retirement Administration Commission.

48 "Contract", a contract for the furnishing of supplies or services to any retirement board.

49 "Debarment", an exclusion from contracting or subcontracting with a retirement board for  
50 a reasonable, specified period of time commensurate with the seriousness of the offense.

51 "Person", any natural person, business, partnership, corporation, union, committee, club  
52 or other organization, entity or group of individuals.

53 "Retirement board", a board established pursuant to the provisions of chapter 32, the  
54 provisions of chapter 34B or the Massachusetts water resources authority retirement board,  
55 excluding the pension reserves investment management board.

56 "Suspension", the temporary disqualification of a vendor who is suspected upon adequate  
57 evidence of engaging or having engaged in conduct which constitutes grounds for debarment.

58 "Vendor", any person that has furnished or seeks to furnish supplies or services under a  
59 contract with a retirement board.

60 (b) The Commission shall establish and maintain a consolidated list of vendors to whom  
61 contracts shall not be awarded and from whom offers, bids, or proposals shall not be solicited.  
62 The list shall show at a minimum the following information: (1) the names of those persons  
63 debarred or suspended in alphabetical order with appropriate cross reference where more than  
64 one name is involved in a single debarment or suspension; (2) the basis of authority for each  
65 debarment or suspension; (3) the extent of restrictions imposed; (4) the termination date of each  
66 debarment or suspension; and (5) in the case of a suspension, the hearing date, if and when set,  
67 for debarment proceedings.

68 The commission shall cause the list to be kept current by the issuance of notices of  
69 additions and deletions. The list shall be published on a periodic basis, together with notices of  
70 additions and deletions therefrom, in the goods and services bulletin and the central register  
71 published by the state secretary and in such other publications as the commission shall designate.

72 The commission shall also forward said list to the inspector general, the attorney general, and the  
73 state auditor.

74 (c) Debarment may be imposed for the following causes:

75 (1) conviction or final adjudication by a court or administrative agency of competent  
76 jurisdiction of any of the following offenses: (i) a criminal offense incident to obtaining or  
77 attempting to obtain a public or private contract or subcontract, or in the performance of such  
78 contract or subcontract; (ii) a criminal offense involving embezzlement, theft, forgery, bribery,  
79 falsification or destruction of records, receiving stolen property or any other offense indicating a  
80 lack of business integrity or business honesty which seriously and directly affects the vendor's  
81 present responsibility as a public contractor; (iii) a violation of state or federal antitrust laws  
82 arising out of the submission of bids or proposals; (iv) a violation of chapter two hundred and  
83 sixty-eight A; (v) a violation of chapter thirty – two-.

84 (2) substantial evidence, as determined by the commission, of any of the following acts:

85 (i) willfully supplying materially false information incident to obtaining or attempting to  
86 obtain or performing any public contract or subcontract; (ii) willful failure to comply with  
87 record-keeping and accounting requirements prescribed by law or regulation; (iii) a record of  
88 failure to perform or of unsatisfactory performance in accordance with the terms of one or more  
89 public contracts, provided that such failure to perform or unsatisfactory performance has  
90 occurred within a reasonable period of time preceding the determination to debar and provided  
91 further that such failure to perform or unsatisfactory performance was not caused by factors  
92 beyond the vendor's control; (iv) the submission to the board or the commission of an inaccurate  
93 disclosure statement (v); the failure to disclose to the board and the commission any

94 compensation provided to any person in regards to attempting to obtain or the performance of a  
95 public contract or subcontract, including, but not limited to, compensation provided by third  
96 parties retained by the vendor to any other person; (vi) any other cause affecting the  
97 responsibility of a vendor which the commission determines to be of such a serious and  
98 compelling nature as to warrant debarment.

99 (d) No vendor may be suspended unless the commission has first informed the vendor by  
100 written notice of the proposed suspension mailed by registered or certified mail to the vendor's  
101 last known address, except when the commission determines that immediate suspension is  
102 necessary to prevent serious harm to the retirement system, in which case the suspension shall  
103 take effect immediately upon signing by the executive director of an order of suspension, and  
104 notice shall be mailed to the vendor at the earliest opportunity. The notice shall inform the  
105 vendor of the reasons for the proposed suspension and shall state that the vendor may within  
106 fourteen days respond in writing and may in such response request a hearing. The commission  
107 may extend the period for response at the request of the vendor. The commission shall determine  
108 whether to impose the suspension or, in the case of an emergency suspension imposed prior to  
109 notice to the vendor, whether to continue the suspension after reviewing the vendor's response, if  
110 any, and making such investigation as the commission determines is necessary and appropriate.  
111 An indictment, or any information or other filing by a public agency charging a criminal offense,  
112 for any of the offenses listed in paragraph (1) of subsection (c) shall constitute adequate evidence  
113 to support a suspension.

114 If the vendor requests a hearing, and the suspension is not based on an indictment, the  
115 commission shall conduct a hearing according to the rules for the conduct of adjudicatory  
116 hearings established by the secretary of administration pursuant to chapter thirty A. Such hearing

117 shall be initiated within thirty days of the imposition of the suspension, unless the vendor  
118 requests that the hearing be delayed. Officers and employees of the commission and records of  
119 the commission shall not be subject to subpoena for such hearing, if in the opinion of the  
120 commission production of records or testimony would prejudice any pending investigation by the  
121 commission.

122 A suspension shall not exceed twelve months unless a pending administrative or judicial  
123 proceeding in which the vendor is a party may result in a conviction or final adjudication of an  
124 offense listed in paragraph (1) of subsection (c).

125 (e) No vendor may be debarred under this section unless the commission has first  
126 informed the vendor by written notice of the proposed debarment mailed by registered or  
127 certified mail to the vendor's last known address. The notice shall inform the vendor of the  
128 reasons for the debarment and shall state that the vendor will be accorded an opportunity for a  
129 hearing if the vendor so requests within fourteen days of receipt of the notice. A hearing  
130 requested under this paragraph shall be conducted by the commission within sixty days of receipt  
131 of the request, unless the commission grants additional time therefore at the request of the  
132 vendor. The hearing shall be conducted according to the rules for the conduct of adjudicatory  
133 hearings established by the commissioner of administration pursuant to chapter thirty A. A  
134 debarment shall not be imposed until (i) fourteen days after receipt by the vendor of notice of the  
135 proposed debarment if no hearing is requested, or (ii) the issuance of a written decision by the  
136 commission which makes specific findings that there is sufficient evidence to support the  
137 debarment and that debarment for the period specified in the decision is required to protect the  
138 integrity of the public contracting process. A vendor shall be notified forthwith of the decision by  
139 registered or certified mail, and of the vendor's right to judicial review in the event that the

140 decision is adverse to the vendor. If a suspension precedes a debarment, the suspension period  
141 shall be considered in determining the debarment period.

142 (f) A debarment or suspension may include all known affiliates of a vendor. The decision  
143 to include a known affiliate within the scope of a debarment or suspension shall be made on a  
144 case-by-case basis, after giving due regard to all relevant facts and circumstances. The offense or  
145 act of an individual justifying suspension, or the evidence justifying a suspension, may be  
146 imputed to the entity with which the individual is connected when such offense or act occurred in  
147 connection with the individual's performance of duties for or on behalf of the entity or with the  
148 knowledge, approval, or acquiescence of the entity or one or more of its principals. The entity's  
149 acceptance of the benefits derived from the conduct shall be evidence of such knowledge,  
150 approval, or acquiescence. The offense or act of an entity justifying debarment, or the evidence  
151 justifying a suspension, may be imputed to any officer, director, shareholder, partner, employee  
152 or other individual associated with the entity who participated in, knew of, or had reason to know  
153 of the entity's act. An entity may not be suspended or debarred except in accordance with the  
154 procedures set forth in this section.

155 (g) In determining whether to debar a vendor, or the period of a debarment, all mitigating  
156 facts and circumstances shall be taken into consideration. A debarment may be removed or the  
157 period thereof may be reduced by the commission upon the submission of an application  
158 supported by documentary evidence setting forth appropriate grounds for the granting of relief,  
159 such as newly discovered material evidence, reversal of a judgment or conviction, bona fide  
160 change of ownership or management, or the elimination of the cause for which the debarment  
161 was imposed.

162 (h) During the period for which a person has been debarred or suspended, that person  
163 shall not submit or cause to be submitted offers, bids, or proposals to any retirement board, nor  
164 shall any retirement board solicit or consider offers, bids, or proposals from, nor execute, renew,  
165 or extend any contract with, a debarred or suspended vendor, and a vendor shall not contract for  
166 services from a debarred or suspended subcontractor on any contract with a retirement system.

167 Section 5. Subdivision (3) of Section 23 of Chapter 32 of the General Laws is hereby  
168 amended by adding the following:

169 Each member of a retirement board established pursuant to the provisions of this chapter  
170 shall upon the commencement of their term file with the commission a statement acknowledging  
171 that they are aware of and will comply with the standards set forth in chapter 268A of the general  
172 laws, the provisions of this chapter and the provisions of regulations promulgated pursuant to  
173 this chapter.

174 Section 6. Chapter 32 of the General Laws is hereby amended by adding the following  
175 section:-

176 Section 20C. (a) Every member of a retirement board shall file a statement of financial  
177 interests for the preceding calendar year with the commission within thirty days after becoming a  
178 member of a retirement board, on or before May first of each year thereafter that such person is a  
179 member of a retirement board and on or before May first of the year after such person ceases to  
180 be a member of a retirement board;

181 (b) The commission shall, upon receipt of a statement of financial interests pursuant to  
182 the provisions of this section, issue to the person filing such statement a receipt verifying the fact  
183 that a statement of financial interests has been filed and a receipted copy of such statement.

184 (c) No member of a retirement board shall be allowed to continue in his duties unless he  
185 has filed a statement of financial interests with the commission as required by this section.

186 (d) The statement of financial interests filed pursuant to the provisions of this section  
187 shall be on a form prescribed by the commission and shall be signed under penalty of perjury by  
188 the reporting person.

189 (e) Reporting persons shall disclose, to the best of their knowledge, the following  
190 information for the preceding calendar year, or as of the last day of said year with respect to the  
191 information required by clauses (2), (3) and (6) below; such persons shall also disclose the same  
192 information with respect to their immediate family provided, however, that no amount need be  
193 given for such information with regard to the reporting person's immediate family:

194 (1) the name and address of, the nature of association with, the share of equity in, if  
195 applicable, of each business with which he is associated;

196 (2) the identity of all securities and other investments with a fair market value of greater  
197 than one thousand dollars which were beneficially owned, not otherwise reportable hereunder;

198 (3) the name and address of each creditor to whom more than one thousand dollars was  
199 owed; provided, however, that obligations arising out of retail installment transactions,  
200 educational loans, medical and dental expenses, debts incurred in the ordinary course of  
201 business, and any obligation to make alimony or support payments, shall not be reported; and  
202 provided, further, that such information need not be reported if the creditor is a relative of the  
203 reporting person within the third degree of consanguinity or affinity;

204 (4) the name and address of the source, and the cash value of any reimbursement for  
205 expenses aggregating more than one hundred dollars in the calendar year if the recipient is a  
206 member of a retirement board and the source of such reimbursement is a person having a direct  
207 interest in a matter before the retirement board of which the recipient is a member;

208 (5) the name and address of the donor, and the fair market value, if determinable, of any  
209 gifts in the calendar year, if the recipient is a member of a retirement board and the source of  
210 such gift(s) is a person having a direct interest in a matter before the retirement board of which  
211 the recipient is a member;

212 (6) the name and address of the source, and the fair market value, of any honoraria  
213 aggregating more than one hundred dollars if the recipient is a member of a retirement board and  
214 the source of such honoraria is a person having a direct interest in a matter before a retirement  
215 board;

216 (7) the name and address of any creditor who has forgiven an indebtedness of over one  
217 thousand dollars, and the amount forgiven if the creditor is a person having a direct interest in a  
218 matter before a retirement board; provided, however, that no such information need be reported  
219 if the creditor is a relative within the third degree of consanguinity or affinity of the reporting  
220 person, or the spouse of such a relative; and ,

221 (8) the name and address of any business from which the reporting person is taking a  
222 leave of absence;

223 Nothing in this section shall be construed to require the disclosure of information, which  
224 is privileged by law.

225 Failure of a reporting person to file a statement of financial interests within ten days after  
226 receiving notice in writing from the Commission which states in detail the deficiency and the  
227 penalties for failure to file a statement of financial interests, or the filing of an incomplete  
228 statement of financial interests after receipt of such a notice shall result in the removal of the  
229 reporting person from the board from the board and he or she shall not be permitted to serve on  
230 any retirement board established pursuant to the provisions of this chapter. Said failure is a  
231 violation of this chapter and the commission may initiate appropriate proceedings pursuant to the  
232 provisions of section twenty-four.

233 Section 7. Clause 26th of Section 7 of Chapter 4 of the General Laws is hereby amended  
234 by adding the following sub-clause:-

235 (q) statements filed pursuant to Section 20C of Chapter 32.

236 Section 8. Section 20 of Chapter 32 of the General Laws is hereby amended by adding  
237 the following paragraph:-

238 (4 7/8 C) No employee, contractor, vendor or any person receiving any remuneration,  
239 financial benefit or consideration of any kind, other than a retirement benefit or the statutory  
240 stipend for serving on the retirement board, from a retirement board or from any person doing  
241 business with a retirement board shall be eligible to serve on a retirement board provided,  
242 however, that an employee of a retirement board may serve on a retirement board other than the  
243 retirement board by which he or she is employed and provided, further, that the provisions of this  
244 paragraph shall take effect at the completion of the board members current term.

245 Section 9. Paragraph (b) of Section 19 of Chapter 34B of the General Laws is hereby  
246 amended in line 14 by inserting the following after the word "32":-

247            Provided that no employee, contractor, vendor or person receiving any remuneration,  
248 financial benefit or consideration of any kind, other than a retirement benefit or the statutory  
249 stipend for serving on the retirement board, from a retirement board or from any person doing  
250 business with a retirement board shall be eligible to serve on a retirement board provided,  
251 however, that an employee of a retirement board may serve on a retirement board other than the  
252 retirement board by which he or she is employed and provided, further, that the provisions of this  
253 paragraph shall take effect at the completion of the board members current term.

254            Section 10. Chapter 32 of the General Laws is hereby amended by adding the following  
255 section –

256            Section 23A (a) This section shall apply to every retirement board contract for the  
257 procurement of investment, actuarial, legal and accounting services.

258            As used in this section the following words shall, unless the context requires otherwise,  
259 have the following meanings:-

260            "Contract", all types of agreement for the procurement of services, regardless of what the  
261 parties may call the agreement.

262            "Contractor", a person having a contract with the retirement board.

263            "Retirement board", a board established under the provisions of this chapter , the  
264 provisions of chapter thirty – four B or the massachusetts water resources authority retirement  
265 board excluding the pension reserves investment management board.

266            "Majority vote", as to any action by or on behalf of a retirement board, a simple majority  
267 of the board.

268 "Minor informalities", minor deviations, insignificant mistakes, and matters of form  
269 rather than substance of the proposal, or contract document which can be waived or corrected  
270 without prejudice to other offerors, potential offerors, or the retirement board.

271 "Person", any natural person, business, partnership, corporation, union, committee, club,  
272 or other organization, entity or group of individuals.

273 "Procurement", acquiring a service, and all functions that pertain to the obtaining of a  
274 service, including description of requirements, selection and solicitation of sources, preparation  
275 and award of contract, and all phases of contract administration.

276 "Procurement officer", an individual duly authorized by the retirement board to assist in a  
277 procurement.

278 "Proposal", a written offer to provide a service at a stated price submitted in response to a  
279 request for proposals.

280 "Purchase description", the words used in a solicitation to describe the services to be  
281 purchased, including specifications attached to or incorporated by reference into the solicitation.

282 "Request for proposals", the documents utilized for soliciting proposals, including  
283 documents attached or incorporated by reference.

284 "Responsible bidder or offeror", a person who has the capability to perform fully the  
285 contract requirements, and the integrity and reliability which assures good faith performance.

286 "Responsive bidder or offeror", a person who has submitted a bid or proposal which  
287 conforms in all respects to the request for proposals.

288 "Services", the furnishing of labor, time, or effort by a contractor, not involving the  
289 furnishing of a specific end product other than reports. This term shall not include employment  
290 agreements, collective bargaining agreements, or grant agreements.

291 (1) A retirement board shall enter into procurement contracts for investment, actuarial,  
292 legal and accounting services utilizing competitive sealed proposals, in accordance with the  
293 provisions of this section.

294 (2) A retirement board that awards a contract shall maintain a file on each such contract  
295 and shall include in such file a copy of all written documents required by this section. Written  
296 documents required by this section shall be retained by the retirement board for at least six years  
297 from the date of final payment under the contract.

298 (b) The retirement board or its procurement officer shall give public notice of the request  
299 for proposals and a reasonable time prior to the date for the opening of proposals. The notice  
300 shall:

301 (1) indicate where, when and for how long the request for proposal may be obtained;

302 (2) describe the service desired, and reserve the right of the retirement board to reject  
303 any or all bids;

304 (3) remain posted, for at least two weeks, in a conspicuous place in or near the offices of  
305 the retirement board until the time specified in the request for proposals; and

306 (4) be published at least once, not less than two weeks prior to the time specified for the  
307 receipt of proposals, in a newspaper of general circulation within the area served by the

308 retirement board and in the case of a procurement for investment, accounting, actuarial or legal  
309 services in a publication of interest to those engaged in providing such services.

310 The retirement board or its procurement officer shall also place the notice in any  
311 publication established by the state secretary for the advertisement of such procurements.

312 The retirement board or its procurement officer may distribute copies of the notice to  
313 prospective bidders, and may compile and maintain lists of prospective bidders to which notices  
314 may be sent.

315 (c) The retirement board shall unconditionally accept a proposal without alteration or  
316 correction, except as provided in this paragraph. A bidder may correct, modify, or withdraw a  
317 proposal by written notice received in the office designated in the request for proposals prior to  
318 the time and date set for the proposal opening. After proposal opening, a bidder may not change  
319 the price or any other provision of the proposal in a manner prejudicial to the interests of the  
320 retirement board or fair competition. The retirement board shall waive minor informalities or  
321 allow the bidder to correct them. If a mistake and the intended proposal are clearly evident on the  
322 face of the proposal document, the procurement officer shall correct the mistake to reflect the  
323 intended correct proposal and so notify the bidder in writing, and the bidder may not withdraw  
324 the proposal. A bidder may withdraw a proposal if a mistake is clearly evident on the face of the  
325 proposal document but the intended correct proposal is not similarly evident.

326 (d) The retirement board shall solicit proposals through a request for proposals. The  
327 request for proposals shall include:

328 (1) the time and date for receipt of proposals, the address of the office to which the  
329 proposals are to be delivered, the maximum time for proposal acceptance by the retirement  
330 board;

331 (2) the purchase description and all evaluation criteria that will be utilized pursuant to  
332 paragraph (d); and

333 (3) all contractual terms and conditions applicable to the procurement provided that the  
334 contract may incorporate by reference a plan submitted by the selected offeror for providing the  
335 required services.

336 The request for proposals may incorporate documents by reference; provided, however,  
337 that the request for proposals specifies where prospective offerors may obtain the documents.  
338 The retirement board or its procurement officer shall make copies of the request for proposals  
339 available to all persons on an equal basis.

340 (e) The retirement board or its procurement officer shall not open the proposals publicly,  
341 but shall open them in the presence of one or more witnesses at the time specified in the request  
342 for proposals. Notwithstanding the provisions of section seven of chapter four, until the  
343 completion of the evaluations, or until the time for acceptance specified in the request for  
344 proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and  
345 shall not be disclosed to competing offerors. At the opening of proposals the retirement board or  
346 its procurement officer shall prepare a register of proposals which shall include the name of each  
347 offeror and the number of modifications, if any, received. The register of proposals shall be open  
348 for public inspection.

349 (f) The retirement board or its consultant retained pursuant to the provisions of this  
350 chapter shall be responsible for the initial evaluation of the proposals. The retirement board or its  
351 consultant retained pursuant to the provisions of this chapter shall prepare their initial  
352 evaluations based solely on the criteria set forth in the request for proposals. The evaluations  
353 shall specify in writing:

354 (1) for each evaluation criterion, a rating of each proposal as highly advantageous,  
355 advantageous, not advantageous, or unacceptable, and the reasons for the rating;

356 (2) a composite rating for each proposal, and the reasons for the rating; and

357 (3) revisions, if any, to each proposed plan for providing the required services which  
358 should be obtained by negotiation prior to awarding the contract to the offeror of the proposal.

359 In the event the initial evaluation is conducted by a consultant retained pursuant to the  
360 provisions of this chapter said consultant shall review all initial evaluations with the retirement  
361 board and provide to each member of the retirement board the initial evaluation of each proposal.

362 (g) The retirement board shall determine the most advantageous proposal from a  
363 responsible and responsive offeror taking into consideration price and the evaluation criteria set  
364 forth in the request for proposals. The retirement board shall award the contract by written notice  
365 to the selected offeror within the time for acceptance specified in the request for proposals. The  
366 parties may extend the time for acceptance by mutual agreement. The retirement board may  
367 condition an award on successful negotiation of the revisions specified in the evaluation, and  
368 shall explain in writing the reasons for omitting any such revision from a plan incorporated by  
369 reference in the contract.

370 (h) In the event of a competitive process to select an investment service provider the  
371 request for proposals shall include mandatory contractual terms and conditions to be  
372 incorporated into the contract including provisions stating that the contractor is a fiduciary with  
373 respect to the funds which the contractor invests on behalf of the retirement board, provisions  
374 stating that the contractor shall not be indemnified by the retirement board, provisions requiring  
375 the contractor to annually inform the commission and the board of any arrangements in oral or in  
376 writing, for compensation or other benefit received or expected to be received by the contractor  
377 or a related person from others in connection with the contractors services to the retirement  
378 board or any other client, provisions requiring the contractor to annually disclose to the  
379 commission and the retirement board any compensation, in whatever form, paid or expected to  
380 be paid, directly or indirectly, by the contractor or a related person to others in relation to the  
381 contractors services to the retirement board or any other client, and provisions requiring the  
382 contractor to annually disclose to the commission and the retirement board in writing any  
383 conflict of interest the contractor may have that could reasonably be expected to impair the  
384 contractor's ability to render unbiased and objective services to the retirement board. Other  
385 mandatory contractual terms and conditions shall address investment objectives, brokerage  
386 practices, proxy voting and tender offer exercise procedures, terms of employment and  
387 termination provisions. The retirement board shall make a preliminary determination of the most  
388 advantageous proposal from a responsible and responsive offeror taking into consideration price  
389 and the evaluation criteria set forth in the request for proposals. The retirement board or its duly  
390 designated agent, subject to the approval of the retirement board, may negotiate all terms of the  
391 contract not deemed mandatory or non-negotiable with such offeror. If, after negotiation with  
392 such offeror, the retirement board in consultation with its duly designated agent and its

393 consultant retained pursuant to the provisions of this chapter determines that it is in the best  
394 interests of the retirement board, the retirement board in consultation with its consultant retained  
395 pursuant to the provisions of this chapter may determine the proposal which is the next most  
396 advantageous proposal from a responsible and responsive offeror taking into consideration price  
397 and the evaluation criteria set forth in the request for proposals, and may negotiate all terms of  
398 the contract with such offeror. The retirement board shall award the contract to the most  
399 advantageous proposal from a responsible and responsive offeror taking into consideration price,  
400 the evaluated criteria set forth in the request for proposals, and the terms of the negotiated  
401 contract. The retirement board shall award the contract by written notice to the selected offeror  
402 within the time for acceptance specified in the request for proposals. The time for acceptance  
403 may be extended for up to 45 days by mutual agreement between the retirement board and the  
404 responsible and responsive offeror offering the most advantageous proposal as determined by the  
405 retirement board.

406           On or before January 1 of each year the contractor shall file the disclosures required  
407 herein with the board and the commission. Failure to file disclosures or the filing of inaccurate  
408 disclosures shall subject the contractor to proceedings under section 21A.

409           (6) The retirement board may cancel a request for proposals or may reject in whole or in  
410 part any and all proposals when the retirement board determines that cancellation or rejection  
411 serves the best interests of the system. The retirement board shall state in writing the reason for a  
412 cancellation or rejection.

413           (7) A person submitting a proposal for the procurement or disposal of services to any  
414 retirement board shall certify in writing on the proposal as follows:

415           The undersigned certifies under penalties of perjury that this proposal has been made and  
416 submitted in good faith and without collusion or fraud with any other person. As used in this  
417 certification, the word ""person" shall mean any natural person, business, partnership,  
418 corporation, union, committee, club, or other organization, entity, or group of individuals.

419 \_\_\_\_\_

420           (Signature of individual submitting bid or proposal)

421 \_\_\_\_\_

422           (Name of business)

423           (8) Each retirement board member shall certify to the commission in writing with respect  
424 to a procurement subject to the provisions of this section, as follows:

425           The undersigned certifies under penalties of perjury that, to the best of his/her knowledge  
426 and belief, this proposal has been made and submitted in good faith and without collusion or  
427 fraud with any other person. As used in this certification, the word ""person" shall mean any  
428 natural person, business, partnership, corporation, union, committee, club, or other organization,  
429 entity, or group of individuals.

430 \_\_\_\_\_

431           (Signature of individual retirement board member)

432 \_\_\_\_\_

433           (Name of retirement board)

434 (9) No person shall cause or conspire to cause the splitting or division of any request for  
435 proposals, proposal, solicitation, or quotation for the purpose of evading a requirement of this  
436 section.

437 (10) Unless otherwise provided by law and subject to paragraph (a), a retirement board  
438 may enter into a contract for any period of time which serves the best interests of the retirement  
439 board; provided, however, that the retirement board shall include in the solicitation the term of  
440 the contract and conditions of renewal, extension or purchase, if any.

441 (a) A retirement board shall not award a contract for a term exceeding five years,  
442 including any renewal, extension, or option provided, however, that a retirement board may  
443 participate in a limited partnership, trust or other entity with a term for a period longer than five  
444 years as part of an investment of system assets.

445 When a contract is to contain an option for renewal, extension, or purchase, the  
446 solicitation shall include notice of the provision. The retirement board shall retain sole discretion  
447 in exercising the option, and no exercise of an option shall be subject to agreement or acceptance  
448 by the contractor.

449 (b) The retirement board shall not exercise an option for renewal, extension or purchase  
450 unless the retirement board, after reasonable investigation of costs and benefits, has determined  
451 in writing that the exercise of the option is more advantageous than alternate means of procuring  
452 comparable services.

453 (11) All specifications shall be written in a manner which describes the requirements to  
454 be met without having the effect of exclusively requiring a proprietary service, or a procurement  
455 from a sole source.

456 (12) All contracts shall be in writing, and the retirement board shall make no payment for  
457 a service rendered prior to the execution of such contract.

458 (a) A contract made in violation of this section shall not be valid, and the retirement  
459 board shall make no payment under such contract. Minor informalities shall not require  
460 invalidation of a contract.

461 (b) A person who causes or conspires with another to cause a contract to be solicited or  
462 awarded in violation of a provision of this section shall forfeit and pay to the appropriate  
463 retirement board a sum of not more than two thousand dollars for each violation. In addition, the  
464 person shall pay double the amount of damages sustained by the retirement board by reason of  
465 the violation, together with the costs of any action. If more than one person participates in the  
466 violation, the damages and costs may be apportioned among them.

467 (c) The commission or the retirement board shall have authority to institute a civil action  
468 to enforce paragraph (b).

469 Section 11. Section 23 of Chapter 32 of the General Laws is hereby amended by striking  
470 out subdivision (4) and inserting in place thereof the following: -

471 (4) If the commission determines that a board of any retirement system has violated or  
472 neglected to comply with any provisions of this chapter, or the rules and regulations promulgated  
473 by the Commission, the Commission may determine that such system should be managed in  
474 accordance with orders of said commission. The commission is hereby authorized to appoint a  
475 committee consisting of three members, two of whom shall be members or designees of the  
476 commission and one who shall be a member of a retirement board other than the board subject to  
477 the commission determination chosen by the commission from a list of three nominees provided

478 by the Massachusetts Association of Contributory Retirement Systems (MACRS), to oversee any  
479 board that is responsible for the administration of any such system. Based upon the  
480 recommendation of said committee the commission shall, direct the board to take or desist from  
481 any action in order to insure that the system is managed with reasonable care, skill, prudence and  
482 diligence. Such direction may include, but is not limited to, the following:-

- 483 (a) transfer of assets to the PRIT Fund;
- 484 (b) termination of contracts;
- 485 (c) approval or denial of retirement benefits;
- 486 (d) employment or termination of employees; and,
- 487 (e) conduct a fiduciary audit

488 Any person receiving a notice from the commission as set out above shall not have a right  
489 to appeal the receipt of such notice to the Contributory Retirement Appeal Board. Any person  
490 receiving any communication, either verbal or written, subsequent to the notice as required by  
491 this section in connection with the same matter shall not have a right to appeal the receipt of such  
492 communication to the Contributory Retirement Appeal Board. Any person aggrieved by any  
493 action taken, notice made or determination rendered by the commission in connection with this  
494 section shall have a right to appeal to the superior court, in accord with Section 16(6) of Chapter  
495 32.

496 Section 12. Subdivision (4) of Section 16 of Chapter 32 of the General Laws, as  
497 appearing in the 2004 Official Edition, is hereby amended by inserting after the word “fulfilled”,

498 in line 99, the following words:- and matters subject to review by the superior court as provided  
499 for in subdivision (6).

500 Section 13. Section 16 of Chapter 32 of the General laws, as appearing in the 2004  
501 Official Edition, is hereby amended by adding the following subdivision:-

502 (6) The commission may institute appropriate proceedings in the superior court for  
503 enforcement of its final orders or decisions issued pursuant to subdivision (4) of section 23 of  
504 chapter 32. Any party aggrieved by a final order or decision of the commission pursuant to  
505 subdivision (4) of section 23 of chapter 32 may institute proceedings for judicial review in the  
506 superior court within thirty days after receipt of such order or decision. Any proceedings in the  
507 superior court shall, insofar as applicable, be governed by the provisions of section fourteen of  
508 chapter thirty A, and may be instituted in the superior court for the county (a) where the parties  
509 or any of them reside or have their principal place of business within the commonwealth, or (b)  
510 where the commission has its principal place of business, or (c) of Suffolk. The commencement  
511 of such proceedings shall not, unless specifically ordered by the court, operate as a stay of the  
512 commission's order or decision. If the commission, pursuant to the authority granted by section  
513 24(1) of chapter 32, seeks to compel the observance of or restrain the violation of the provisions  
514 of Sections 1 to 28, inclusive, a party aggrieved by such an action may appeal to the superior  
515 court in accord with the provisions of section 14 of chapter 30A. If an action pursuant to Section  
516 24 (1) has already been instituted in the superior court, the person's right to review shall flow  
517 from the superior court case which has already begun.

518 Section 14. Paragraph (a) of subdivision (6) of Section 20 of Chapter 32 of the General  
519 Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out lines 842  
520 through 845 inclusive and inserting in place thereof the following: -

521 (a) The elected and appointed members of any city, town, county, regional, district, or  
522 authority retirement board upon acceptance of the appropriate legislative body shall receive a  
523 stipend provided, however, that said stipend shall not be less than three thousands dollars per  
524 annum nor exceed seven thousand five hundred dollars per annum; provided further,

525 Section 15. Said subdivision, as so appearing, is hereby further amended in line 853 by  
526 striking out the words “three thousand” and inserting in place thereof the word “seven thousand  
527 five hundred”.

528 Section 16. Section 20 of Chapter 32 of the General Laws is hereby amended by adding  
529 the following sub-division:-

530 (7) In order to serve as a member of a retirement board an individual shall comply with  
531 the provisions of this subdivision.

532 Elected or appointed members shall be required to undertake four hours of training  
533 annually sponsored by the commission. The commission shall offer at least four opportunities  
534 during the year for board members to meet this requirement at times and places of convenience  
535 throughout the state. The commission may offer this education or may contract with other  
536 parties to provide such training. The training curriculum shall, at a minimum, include the topics  
537 of fiduciary responsibility, ethical conduct, and conflict-of-interest.

538 Elected or appointed members shall also be required to undertake an additional four  
539 hours training annually as prescribed by the commission provided by the Massachusetts  
540 Association of Contributory Retirement Systems or other local, state, regional and national  
541 organizations recognized by the commission as having expertise in retirement issues of  
542 importance to retirement board members or other entities, on topics acceptable as the  
543 commission may from time to time determine. The commission shall certify such organizations  
544 as appropriate for conducting such training upon application to the commission.

545 The commission shall provide retirement boards with a statement of completion of  
546 education form on or before December 31 of each year. The board shall provide the forms to  
547 their members. The form shall state under the pains and penalties of perjury whether or not the  
548 retirement board member has undertaken the combined eight hours of continuing education  
549 required by this sub-division. Retirement board members shall submit the completed form by  
550 January 15 of the year following.

551 Any retirement board member who without good cause as determined by the commission  
552 has failed to file a statement of completion of education form with PERAC by January 15 shall  
553 be notified by PERAC by February 15 of the failure to file. The commission will afford the  
554 board member 30 days to provide just cause for why he or she did not file the required form.  
555 Failure to provide acceptable justification as determined by the commission for not filing the  
556 form in a timely manner within 30 days shall result in suspension of voting rights until the form  
557 is successfully completed. The commission shall notify the retirement board of the suspension of  
558 voting rights of the board member in question and that board member shall not be entitled to vote  
559 on any matter before the retirement board.

560 Any retirement board member who without good cause after review by the commission  
561 has been determined to have not successfully completed the aforementioned continuing  
562 education requirements shall have his/her board voting rights suspended until he or she has  
563 successfully completed the education requirements of the previous year. The commission will  
564 afford the board member 30 days to provide good cause for why he or she did not complete the  
565 required education requirements for the previous year. Board members shall have 180 days to  
566 successfully complete the continuing education requirements for the previous year.

567 Failure to successfully complete the education requirements shall prohibit a retirement  
568 board member from serving beyond the conclusion of the term in which the failure took place.  
569 In the event the non-complying retirement board member is an ex-officio member his or her term  
570 shall cease upon notification to the retirement board by the commission of that non-compliance.

571 Each retirement board shall notify all prospective board members and board members of  
572 the requirement to complete education requirements at the time of receiving information about  
573 seeking election to a retirement board, or prior to being appointed to a retirement board.

574 The commission shall annually notify board members of the requirement to complete  
575 continuing education.

576 The requirements established by this sub-division shall become effective for calendar  
577 year 2007.

578 Section 17. Chapter 150E section 7 is hereby amended by adding the following new  
579 subsection (e):

580           Any employer entering into a collective bargaining agreement with an employee  
581 organization must provide a copy of said agreement to the retirement board to which the  
582 employees covered by the agreement are members. All retirement systems must maintain files of  
583 all active collective bargaining agreements which cover the systems members. The retirement  
584 board shall review collective bargaining agreements for compliance with the provisions of  
585 chapter 32.

586           Section 18. Chapter 32 section 21 is hereby amended in line 15 by adding the following  
587 new sentence after the word “system”:

588           Each board shall maintain copies of all collective bargaining agreements which cover the  
589 systems members and shall make such agreements available to the commission for review at  
590 such time as the commission shall specify.